

AO 91 (Rev. 5/85) - Criminal Complaint

United States District Court

FILED

NORTHERN

DISTRICT OF

2008 JUN 9 P 2:16
CALIFORNIA

E-FILING

UNITED STATES OF AMERICA

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

V.

CRIMINAL COMPLAINT

Wenceslado VALENCIA-Lopez

08-70338

RS 7

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, May 27, 2008, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following
facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

6/9/08

Date

at

San Jose, California

City and State

Richard Seeborg
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Signature of Judicial Officer

RE: Wenceslado VALENCIA-Lopez

A 72 090 863

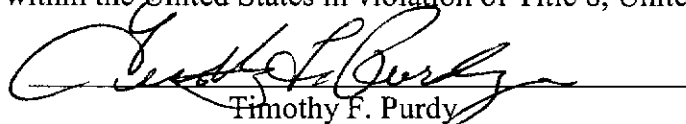
I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT, Wenceslado VALENCIA-Lopez (in addition to (19) alias's) is a 35 year-old single male whose date of birth is currently understood to be September 28, 1973. He is a citizen and native of Mexico as substantiated by a sworn statements made to that effect on; 10/15/1996, 12/10/1998, 5/23/2000 and 9/8/2003;
- (2) The DEFENDANT has been assigned Alien Registration number of A 72 090 863, FBI number of 911003PA1, and California Criminal State ID Number of A10076528;
- (3) On June 9, 1993, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following offense: TRANSPORTATION, SALE OF CONTROLLED SUBSTANCES, a felony, in violation of California Health and Safety Code Section 11352, for which the DEFENDANT was sentenced to three years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (4) On December 8, 1994, the DEFENDANT was determined to be unlawfully present in the United States by the EOIR Immigration Judge, Eloy, Arizona and ordered deported from the United States to Mexico. This removal was facilitated on December 9, 1994;
- (5) On November 1, 1996, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following offense: POSSESSION OF A CONTROLLED SUBSTANCE FOR SALE/METHAMPHETAMINES, a felony, in violation of California Health and Safety Code Section 11378, and RECEIVING KNOWN STOLEN PROPERTY, a felony, in violation of California Penal Code Section 496, for which the DEFENDANT was sentenced to sixteen months in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (6) On September 15, 1997, the DEFENDANT was convicted in the United States District Court/Northern District of California, for the following offense: ILLEGAL REENTRY AFTER DEPORTATION, a felony, in violation of Title 8 USC Section 1326, for which the DEFENDANT was sentenced to twenty-four months in prison;

RE: Wenceslado VALENCIA-Lopez

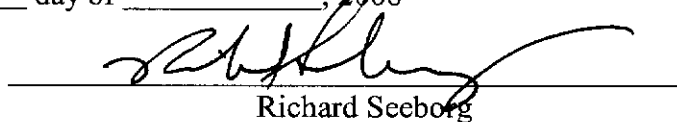
A 72 090 863

- (7) On December 14, 1998, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director, Eden, Texas and ordered deported from the United States to Mexico;
- (8) On September 8, 2003, the DEFENDANT was determined to be unlawfully present in the United States by the ICE Assistant Special Agent in Charge San Francisco, California and ordered deported from the United States to Mexico;
- (9) On January 2, 2008, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following offenses: FELON IN POSSESSION OF A FIREARM, a felony, in violation of California Penal Code Section 12021(A)(1) and sentenced to fifty-eight days in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(E)(ii);
- (10) The DEFENDANT, on a date unknown but no later than May 27, 2008, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and deportations/removals, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, United States Code, Section 1326. On May 28, 2008, the DEFENDANT was interviewed by Immigration Enforcement Agent (IEA) Sean Ramsay at the Santa Clara County Jail, San Jose, CA. The interview was concluded when IEA Ramsay had received information that this DEFENDANT may have been previously removed/deported;
- (11) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (12) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 9th day of June, 2008



Richard Seeborg
UNITED STATES MAGISTRATE JUDGE